

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.762 of 2015

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Premlata Devi W/o late Laxmi Kant Pathak resident of village- Mehada Sahpur,
P.S. and District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources, Government of Bihar, Patna.
2. The Secretary, Department of Water Resources, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Department of Water Resources, Government of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Birpur Division, District- Supaul.
5. The Superintending Engineer, Canal Circle, Saharsa.
6. The Executive Engineer, Irrigation Division, Water Resources Department. Birpur, Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Advocate Mr. Vivek Kumar, Advocate
For the Respondent/s	:	Mrs. Binita Singh, SC 28 Mr. Nishant Kumar Jha, AC to SC 28

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 26-03-2018

Re. Interlocutory Application No. 1772 of 2018.

Interlocutory Application has been filed in view of the demise of original petitioner on 13.11.2017 leaving behind his widow Premlata Devi. It is prayed that the widow of the petitioner Premlata Devi may be substituted in place of the original petitioner as the case relates to monetary benefits arising in respect of promotion granted and withdrawn from the original writ petitioner which is the subject



matter of the writ petition.

2. I.A. No. 1772 of 2018 is allowed and the name of Premlata Devi be substituted in place of the original writ petitioner.

Re. Civil Writ Jurisdiction Case No.762 of 2015

3. Heard counsel for the petitioner and the respondents.

4. The writ petition has been filed by the petitioner challenging the order dated 18.02.2010 issued by the Chief Engineer whereby the claim of the petitioner for being given the higher post of Supervisor Grade - I claiming parity with others have been rejected.

5. The reason which has been assigned is that the Superintending Engineering who had granted the higher post to the others with whom the petitioner is claiming parity is not the competent authority to give the same.

6. Counter affidavit has been filed by the State wherein the stand of the State is that the petitioner was a Work-Sarkar under work charge establishment since 17.12.1970 to 30.09.2004 and that he has been granted his time bound Promotion during his service tenure. It is also submitted that the post are of non-cadre post and there is no provision for cadre promotion as per Government letter no. 1160 dated 16.07.1994 and that the posts under the work charge establishment get abolished automatically after retirement or death of such engaged persons.



7. In respect of such claim under the work charge establishment or converted from work charge to regular Establishment, it is submitted by the Government that two S.L.Ps bearing no. 10597 of 2008 and 17879 of 2007 are pending consideration before the Hon'ble Supreme Court and as such the case of promotion cannot be considered.

8. In view of the aforesaid submission on behalf of the State, no relief can be granted as the matter is to be decided in the pending S.L.Ps before the Hon'ble Apex Court. As and when final decision is taken in the said pending S.L.Ps and if the benefit of promotion is granted to the other similarly situated as the petitioner, then only the petitioner's claim may arise.

9. In view of the aforesaid order, no orders need be passed in the instant writ petition.

10. The writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	03.04.2018
Transmission Date	

